

REMARKS / ARGUMENTS

The present application includes pending claims 1-21, all of which have been rejected. By this Amendment, claims 1-4, 8-11 and 15 have been amended, as set forth above, to further clarify the language used in these claims and to further prosecution of the present application. New claims 22-30 have been added. The Applicant respectfully submits that the claims define patentable subject matter.

Initially, the Applicant notes that a goal of patent examination is to provide a prompt and complete examination of a patent application.

It is essential that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the *initial review* of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, Office personnel *should state all* reasons and bases for rejecting claims in the *first* Office action. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, Office personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

See Manual of Patent Examining Procedure (MPEP) § 2106(II). As such, the Applicant assumes, based on the goals of patent examination noted above, that the present Office Action has set forth “all reasons and bases” for rejecting the claims.

Claims 1-7 and 15-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Euscher et al (US Patent 5,991,613). Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Euscher et al (US Patent 5,991,613) in view of Koerner (US Patent 7,049,933). The Applicant respectfully traverses these rejections at least based on the following remarks.

REJECTION UNDER 35 U.S.C. § 102

I. Euscher Does Not Anticipate Claims 1-7 and 15-21

The Applicant first turns to the rejection of claims 1-7 and 15-21 under 35 U.S.C. 102(b) as being anticipated by Euscher. With regard to the anticipation rejections under 102(b), MPEP 2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See id. (internal citation omitted).

A. Rejection of Independent Claim 1 under 35 U.S.C. § 102(b)

With regard to the rejection of independent claim 1 under Euscher, the Applicant submits that Euscher does not disclose or suggest at least the limitation

of “determining a signal quality metric for a plurality of signal paths, wherein one or more of said plurality of signal paths is selected based on stored information for preceding frames,” as recited by the Applicant in independent claim 1.

The Office Action states the following:

Regarding claim 1, Euscher et al teach a method for selecting at least one signal path, the method comprising: determining a signal quality metric for each of a plurality of signal paths (see figure 1, and column 2, line 57 - column 3, line 10);

See the Office Action at page 2. Euscher, at the above citation, discloses a method is for controlling antenna selection in a radio receiver, having a plurality of antennas having a device for measuring field strengths of received signals, and having a central processor, which forms at least one threshold value from the measured field strengths. See Euscher, col. 2, lines 58-62. The Applicant points out that the receiver of Euscher measures signal strength for signals that are received via a plurality of antennas. In this regard, **Euscher discloses that signal strength (equated by the Examiner to the signal quality metric) is measured for all received signals. There is no signal strength determination by the receiver of Euscher for a plurality of signal paths, where one or more of the signal paths (or the receive antennas of Euscher) are selected based on stored information for preceding frames, as recited by Applicant’s claim 1. In fact, Euscher does not even disclose storing of any information related**

to preceding frames for purposes of selecting signal paths for signal quality metric determination.

Therefore, the Applicant maintains that Euscher does not disclose or suggest at least the limitation of "determining a signal quality metric for a plurality of signal paths, wherein one or more of said plurality of signal paths is selected based on stored information for preceding frames," as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not anticipated by Euscher and is allowable. Independent claims 8 and 15 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 8 and 15 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claims 2-7 and 16-21

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1 and 15 under 35 U.S.C. § 102(b) as being anticipated by Euscher has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-7 and 16-21 depend from independent claims 1 and 15, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-7 and 15-21.

II. Rejection of Claims 8-14

Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Euscher et al (US Patent 5,991,613) in view of Koerner (US Patent 7,049,933). Independent claim 8 is similar in many respects to the method disclosed in independent claim 1. Furthermore, Koerner does not overcome the deficiencies of Euscher as it relates to the above argument for the allowability of claim 1. Therefore, the Applicant submits that independent claim 8 is also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1. Additionally, since the additional cited reference (Koerner) does not overcome the deficiencies of Euscher, claims 9-14 depend from independent claim 8, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 8-14.

III. New Claims 22-30

The Applicant has entered new claims 22-30. The Applicant submits that support for the new claims may be found in paragraphs [24]-[51], as well as Figures 1A-6 of the present application. Therefore, no new matter has been introduced by the new claims 22-30.

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CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-30 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: 23-AUG-2007

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